IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5130 of 2006

Date of Decision: 28.09.2006

Municipal Corporation, Ludhiana ...Petitioner

Vs.

Chander Kanta & Anr. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Harsh Aggarwal, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the orders passed by the learned Courts below granting injunction in favour of the respondents against the demolition of their house.

Plaintiff/respondents had produced on record copies of the bills of water charges and house-tax which stood deposited by the plaintiffs and on the basis of material available on record learned courts below came to a prima facie conclusion that the plaintiff-respondents had a prima facie case in their favour. The balance of convenience was also in favour of the plaintiff-respondents and the Courts further held that in case injunction is not granted plaintiff-respondents would suffer irreparable loss and injury.

The only ground on which the petitioner had issued notice for demolition was an order passed by this Court in CWP No.4886 of 2003 directing the petitioners to remove encroachment upon the public property. The contention of the learned counsel for the petitioner is that against the order passed appeal was competent and plaintiff-respondents have chosen not to file appeal; thus the civil suit was not maintainable.

Be that as it may, the question as to whether there is encroachment is still to be decided by the learned Trial Court on appreciation of evidence. The injunction has been granted on the available material on record by holding that there was a prima facie case in favour of the plaintiff-respondents.

Dismissed.

However, Keeping in view the fact that serious allegations of encroachment upon public property have been alleged by the petitioner, it is directed that the trial of the suit should be expedited and suit be disposed of preferably within one year.

(Vinod K.Sharma)
Judge

28.09.2006
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